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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,703	11/26/2003	Robert R. Turvey	J-3602A	7847
28165	7590	06/24/2004	EXAMINER	
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,703

Applicant(s)

TURVEY, ROBERT R. 

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4, 6, 7, 14, 15, 18, 20-22, 27, 33-48, 51 and 52 is/are rejected.
7) ☒ Claim(s) 5, 8-13, 16, 17, 19, 23-26, 28-32, 49, 50 and 53 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is the first office action for application number 10/723,703, Method and Device for Suspending Pouches, filed on November 26, 2003.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: "38," "61," and "124". Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective

action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because reference number "102" in Fig. 13 appears to be incorrect and should be --104--; and reference number "90" in Figs. 1, 13, and 15 does not appear to be referencing a pin. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "91," "30a," "30b," and "30c". Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in

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reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cabinet or shelf in claim 35 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as

per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 13 is objected to because of the following informality: in line 1, --an-- should be inserted before "elongate". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27 and 33-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the preamble of claim 20 and certain portions in the body of dependent claim 27, thereby making the scope of the claim unclear. The preamble in claim 20 clearly indicates that a subcombination is being claimed, e.g., "a suspension device for a pouch...." This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a suspension device," the pouch being only functionally recited. This presents no problem as long as the body of the claim also refers to the pouch functionally.

The problem arises when the pouch is positively recited within the body of the claim, such as in claim 27. The examiner cannot be sure if applicant's intent is to claim merely the suspension device or the suspension in combination with the pouch.

Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the suspension device alone or the combination of the suspension device and the pouch. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the combination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination.

Claim 33 recites the limitation "the clamping" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 35 recites the limitation "the surface" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 7, 14, 18, 20-22, 47, 48, 51, and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,279,204 to Gonzalez. Gonzalez discloses a suspension device comprising: a base member (1); a clamping assembly (27) mounted for sliding movement relative to the base member and adapted to clamp an item; wherein the base member comprises a housing; wherein the clamping assembly includes a first clamping member (33) and a second clamping member (35) movable with respect to the first clamping member; wherein the second clamping member is pivotable between first and second angular limits with respect to the first clamping member; wherein the housing includes a mounting member (top surface of 1), side walls (21 & 23) extending from the mounting member and defining a channel (3) within which the clamping assembly is disposed; wherein the clamping assembly is slidable along a linear path with respect to the housing; in combination with an item (51A) clamped between the first clamping member and the second clamping member; and wherein the clamping assembly includes a guide portion (side surfaces of members 33 and 35) in sliding engagement with the base member.

Gonzalez inherently teaches a method for suspending a pouch, the method comprising the steps of: providing a clamping assembly mounted for sliding movement in a housing and adapted to clamp the pouch; opening the clamping assembly; placing the pouch in the clamping assembly; simultaneously closing and sliding the clamping assembly into the housing such that the pouch is suspended from the clamping assembly; wherein the step of placing the pouch in the clamping assembly includes the step of moving a second clamping member into engagement with a first clamping

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member while the pouch is disposed therebetween; wherein the step of simultaneously closing and sliding includes the step of moving the clamping assembly along a linear path with respect to the housing; and wherein the step of simultaneously closing and sliding further includes the step of engaging a first guide surface of the housing with a second guide surface of the clamping assembly.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez. Gonzalez further discloses that the item is a plastic pouch (Col. 3, line 15ff). Gonzalez discloses the claimed invention except for the limitation of the pouch being constructed of thermoplastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have constructed the pouch in Gonzalez of thermoplastic for the purpose of providing an alternative, mechanically equivalent material for the pouch based on the suitability of the material.

Allowable Subject Matter

Claims 5, 8-13, 16, 17, 19, 23-26, 28-32, 49, 50, and 53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

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independent form including all of the limitations of the base claim and any intervening claims.

Claim 33 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 27 and 34-46 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 2,017,698 to Levy

U.S. Patent 3,707,271 to Sanchez et al.

U.S. Patent 3,861,630 to Ady

U.S. Patent 4,656,697 to Naslund

U.S. Patent 4,979,668 to Allen et al.

U.S. Patent 5,050,272 to Robinson et al.

U.S. Patent 5,267,711 to Perreault

U.S. Patent 5,379,489 to Delk et al.

U.S. Patent 5,603,417 to Blair

Levy discloses a slide fastener for the mouths of containers. Sanchez et al. disclose a closure construction for plastic bags. Ady discloses a bag holder. Naslund discloses a


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bag clip for tightly sealing plastic bags. Allen et al. discloses a reclosure device adapted for installation on a cardboard container. Robinson et al. disclose a closure member for a bag. Perreault discloses a bag holder device. Delk et al. disclose a bag closure for sealing bags. Blair discloses a bag sealing and storage apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

June 14, 2004